



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/493,750	01/28/2000	Purnendu Shekhar Ojha	NEXTAG-00308	2623
28960	7590	05/09/2006	EXAMINER	
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			POND, ROBERT M	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 05/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/493,750	Applicant(s) OJHA ET AL.	
	Examiner Robert M. Pond	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4 and 6-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 6-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/01/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

All pending claims (1, 4, and 6-31) were examined in this non-final office action necessitated by new grounds of rejection.

Response to Arguments

Applicant's arguments, see Remarks, filed 12 January 2006, with respect to the rejection(s) of claim(s) 1, 4, and 6-31 under 35 USC 102 and 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Walker and Chelliah.

Please note: the Applicant's is claiming a separate embodiment pertaining to third-party subsidies described in newly introduced Figures 26-34. This new embodiment introduced new subject matter and does not benefit from any earlier filing date.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

- 1. Claims 1, 4, 6, and 12-31 are rejected under 35 USC 102(e) as being anticipated by Walker (US 6,754,636 which incorporates by reference Walker US 5,794,207 hereinafter referred to as “Walker ‘207”).**

Walker teaches all the limitations of claims 1, 4, 6, and 12-31. For example, Walker discloses a comparison shopping system and method that allows a buyer (i.e. a first party) to submit production information with a desired bid price to a remotely connected purchasing system. Based on the buyer offer information, the purchasing system selects a particular product (such as a manufacturer and model number) from a plurality of possible products from a plurality of sellers (i.e. second parties), and presents products from one or more sellers that meet the buyer's criteria (see at least abstract; Fig. 1A and 1B; col. 7, lines 32-47). Walker discloses subsidies being provided by a party- a manufacturer (i.e. a third party to a retailer acting as the seller), the purchasing system (i.e. a third-party), a retailer (i.e. a third-party), and by example a credit card company (see at least col. 7, lines 43-47; col. 8, lines 4-30; col. 30, lines 45). Walker further discloses:

- Providing information relating to a transaction between a first party and a second party to a third party via the wide area network: first, second, and third parties are connected to the Internet or wide area networks using the Web and using various computing and communication devices (see at least Figs. 1A and 1B; col. 5, lines 1-17; col. 6, line 66 through col. 7, line 24). Please note: a third-party (i.e. purchasing system) is aware of transaction occurring between buyer and seller. Third-party may further facilitate the deal by introducing a subsidy that closes the deal between a buyer and a seller; first party and second party ('207: see at least Fig. 1).
- Enabling the third party to facilitate consummation of the transaction between the first and second parties by transmitting a counteroffer or acceptance from the third party to the first party via the wide area network: Counteroffer to provide \$50 subsidy by a third party (e.g. credit card company) if buyer agrees to submit a credit card application (see col. 8, lines 19-30); purchasing system (i.e. third-party) can consummate the deal between a buyer making an offer (i.e. bid) and seller's price (i.e. ask price). When determining whether to accept a buyer's offer for a given product, the purchasing system may determine the subsidy amount provided by the manufacturer for the product (see at least col. 37, lines 43-62); secondary offer sent to seller (see at least Fig. 26C; col. 31, lines 21-30).

- Notifying the second party of the counteroffer transmitted to the first party:
seller receives offers from the purchasing system and communications offer acceptances/rejections. First party and second party who eventually accept an offer are notified (see at least col. 14, lines 16-26); counteroffer embodiments (207': see at least col. 22, lines 39 through col. 23, line18).
- Notifying the second party of the acceptance transmitted to the first party:
seller receives offers from the purchasing system and communications offer acceptances/rejections. First party and second party who eventually accept an offer are notified (see at least col. 14, lines 16-26); counteroffer embodiment with acceptance (207': see at least col. 22, lines 39 through col. 23, line18).
- Filtering: purchasing system applies business rules to filter bids based on at least one criterion (e.g. location of buyer) (see at least col. 11, lines 52-67); minimum acceptable price range by seller (207': see at least col. 23, lines 45-59).
- Second bid/second ask price: counteroffer embodiments (207': see at least col. 22, lines 39 through col. 23, line18).
- Business rules and criteria: purchasing system automatically applies rules associated with second party; response options (see at least col. 14, lines 38-58); waiting a predetermined time period (e.g. discounting a product as it nears its expiration period) (see at least col. 12, line 5); sending offer data to a seller on a periodic basis (see at least col. 13, lines 44-50);

Art Unit: 3625

implementing business protocol (i.e. rules that govern participation) (207': see at least col. 28, line 18 through col. 30, line 15); processing a seller's request using a minimum price range set by seller (207': see at least col. 23, lines 45-59).

- Fourth party: retailer is fourth party and can offer a subsidy to close the deal (see at least Fig. 1B (410); col. 7, lines 40-47).
- Mutually exclusive bid groups: offers sent to group of sellers within a specific subject area (207': see at least col. 18, lines 28-33).
- Computer program product: Inherent in Walker '207 are the structures necessary to permit a computer program product to execute the computer instructions necessary to function as a computerized reservation service.

Pertaining to claim 25

Rejection of claim 25 is based on similar rationale as noted above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 7-10 are rejected under 35 USC 103(a) as being unpatentable over Walker (US 6,754,636 which incorporates by reference Walker US**

5,794,207 hereinafter referred to as “Walker ‘207”) in view of Chelliah (US 5,710,887).

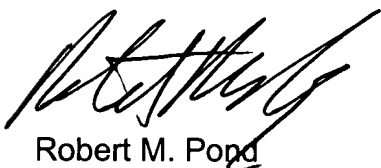
Walker teaches all the above as noted under the 102(e) rejection and further teaches a) buyers, sellers, and retailers accessing a web server-based purchasing site over the Internet (Walker ‘207), b) using a browser application to submit offers/counteroffers and accept offers (Walker ‘207), and c) a third party offering subsidies to facilitate sales (Walker ‘636), but does not specifically disclose transmitting a web page to the third party, an entry in the web page corresponding to the transaction between the first and second parties. Chelliah teaches a system and method of a buyer interacting with multiple storefronts by accessing a remote central electronic mall server using a web browser. Chelliah teaches various business rules used to provide subsidies to customers to facilitate sales, a third-party monitoring the buyer’s activity on a seller’s electronic storefront using a web-based dashboard application, and teaches the third-party offering subsidies (i.e. incentives) to increase sales for the electronic store front. Chelliah further teaches using active objects such as icons, buttons, and links for selection purposes (see at least col. 6, lines 37-44; col. 23, line 48 through col. 24, line 42). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the system and method of Walker to implement a web page dashboard with an active objects as taught by Chelliah, in order to provide a third-party with an interactive user interface to facilitate sales.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Yogesh Garg can be reached on 571-272-6756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert M. Pond
Primary Examiner
May 4, 2006